

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE: TRICOR INDIRECT PURCHASER)
ANTITRUST LITIGATION)

THIS DOCUMENT RELATES TO:) Civil Action No. 05-360 (KAJ)

05-591 (*Pacificare Health Systems, Inc.*))

)

**ABBOTT'S AND FOURNIER'S NOTICE OF DEPOSITION OF PACIFICARE
HEALTH SYSTEMS, INC. PURSUANT TO FED. R. CIV. P. 30(B)(6)**

To: All Counsel on the Attached Service List

PLEASE TAKE NOTICE that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Abbott and Fournier will take the deposition by oral examination of Pacificare Health Systems, Inc., on October 17, 2006 at 9:30 A.M., at the offices of Patterson, Belknap, Webb & Tyler LLP, 1133 Avenue of the Americas, or such other location agreed to by counsel. The deposition will be recorded by videotape as well as stenographically before a Notary Public or other officer authorized to administer oaths, and shall continue from day to day until completed, with such adjournments as to time and place as may be necessary.

NOTICE IS HEREBY GIVEN that, pursuant to Fed. R. Civ. P. 30(b)(6), Pacificare Health Systems, Inc. is required to designate one or more officers, directors, or managing agents or other persons who consent to testify on its behalf, to give testimony on the topics set forth in Exhibit A hereto, and the person(s) so designated shall be required to testify as to each of those matters known or reasonably available to the corporation. You are invited to attend and cross-examine.

Defendants hereby request the production of all documents relating or referring to the topics set forth in Exhibit A that have not already been produced in this litigation.

Production is requested by October 2, 2006. Defendants hereby incorporate by reference the Definitions and Instructions from Defendants' First Set of Requests for the Production of Documents and Things from the Third-Party Payer Plaintiffs.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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Dated: September 22, 2006
538393

DEFINITIONS AND INSTRUCTIONS

1. “TriCor®” means any pharmaceutical product marketed under the trade name “TriCor®,” at any time.
2. “Lofibra®” means any pharmaceutical product marketed under the trade name “Lofibra®,” at any time.
3. “Antara®” means any pharmaceutical product marketed under the trade name “Antara®,” at any time.
4. “Triglide®” means any pharmaceutical product marketed under the trade name “Triglide®,” at any time.
5. “Third Party Payment” means a payment of money or other valuable consideration, including reimbursements, by You or on Your behalf for prescription drug products prescribed or dispensed to Members.
6. “Members” means persons or entities enrolled or otherwise covered (e.g., participants and beneficiaries) under Your prescription benefit or other health, welfare or medical plan.
7. “Maintained Drug Formulary” or “Maintained Drug Formularies” means the comprehensive list(s) of brand-name and generic drugs covered under Your prescription benefit or other health, welfare or medical plans.
8. The relevant time frame for these topics is January 1998 to the present.

EXHIBIT A

Pacificare is requested to designate one or more officers, directors or managing agents, or other persons who consent to testify on its behalf on the following topics:

TOPICS

1. Pacificare's corporate structure.
2. Identification of the various types of health plans that Pacificare offers or that are offered on its behalf.
3. Pacificare's contracts with pharmacy benefit managers, insurance companies, pharmacies or other entities, for the provision of pharmacy benefit management services or prescription drug coverage to Pacificare's Members.
4. Pacificare's policies or procedures pertaining to the maintenance (including modifications thereto) of all Maintained Drug Formularies.
5. The status of (1) TriCor®, (2) Lofibra®, (3) Antara® and (4) Triglide® on all Maintained Drug Formularies.
6. Pacificare's discussions, considerations of, or decisions to add, delete or change the status of the following drugs on any Maintained Drug Formulary: (1) TriCor®, (2) Lofibra®, (3) Antara®, and (4) Triglide®.
7. Pacificare's control over Maintained Drug Formularies.
8. Pacificare's communications with the manufacturers or suppliers of TriCor®, Lofibra®, Antara®, and Triglide® concerning: (a) the pricing (including rebates or other incentives) for TriCor®, Lofibra®, Antara®, and Triglide®, (b) the placement of TriCor®, Lofibra®, Antara®, and Triglide® on any Maintained Drug Formulary or (c) the availability of TriCor®, Lofibra®, Antara®, and Triglide®.

9. Pacificare's communications with the manufacturers or suppliers of Lofibra®, Antara®, and Triglide® concerning any comparisons between TriCor®, and Lofibra®, Antara®, or Triglide®.

10. Pacificare's communications to Members regarding TriCor®, Lofibra®, Antara®, and Triglide®.

11. Pacificare's efficacy, safety or consumer preference comparisons between any version of TriCor® and any version of Lofibra®, Antara® or Triglide®.

12. Pacificare's Third Party Payments for (1) TriCor®, (2) Lofibra®, (3) Antara®, and (4) Triglide®.

13. Pacificare's comparisons of fenofibrate with statins, niacins, bile acid sequestrants, or other cholesterol lowering drugs.

14. Pacificare's comparisons of any version of TriCor® with another version of TriCor®.

15. Any programs that Pacificare has implemented, discussed or otherwise considered to switch or attempt to switch its Members taking a particular pharmaceutical product to another pharmaceutical product.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 22, 2006, the foregoing was caused to be electronically filed with the Clerk of the Court using CM/ECF which will send electronic notification of such filing to all registered participants.

In addition, the undersigned hereby certifies that true and correct copies of the foregoing were caused to be served via electronic mail on September 22, 2006 upon the following parties:

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